



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SP

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
|-----------------|-------------|----------------------|---------------------|
|-----------------|-------------|----------------------|---------------------|

09/027,867 02/23/98 CARROLL

F 2734-CIF-Z

| |
|----------|
| EXAMINER |
|----------|

QM12/0813

JIM ZEGER
SUITE 108
801 NORTH PITT STREET
ALEXANDRIA VA 22314

| | |
|--------------|--------------|
| PATTERSON, M | |
| ART UNIT | PAPER NUMBER |

3728
DATE MAILED:

23

08/13/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/027,867

Applicant(s)

Carroll

Examiner

Marie Patterson

Art Unit

3728



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Jul 12, 2001
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2, 5, 10, and 22-30 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2, 5, 10, and 22-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 20) ☐ Other: _____

Art Unit:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 2 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bouyer or Wilson in view of either Kelly or Jordan.

Bouyer shows a cleat with a mounting member (2) and a plurality of traction teeth (3) which project outwardly (i.e. out from the base), have an outer traction surface (all surfaces 6, 6A, and 6B), and the outer traction surface (the surfaces 6A and 6B) having an outward angulation.

Wilson shows a cleat with a mounting member (24) and a plurality of traction teeth (15 and 18) which project outwardly (out from the base 14), have an outer traction surface (the entire bottom surface of the teeth), and an outer traction surface (shown at 18) which has an outward angulation.

Wilson or Bouyer shows a cleat substantially as claimed except for an anti-debris ring. Kelly or Jordan '114 teaches providing an anti-debris ring (24 or 7). It would have been obvious to provide an anti-debris ring as taught by either Kelly or Jordan in the cleat of Wilson or Bouyer to prevent debris from getting between the cleat body and the shoe sole.

Art Unit:

3. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 2 and 5 above, and further in view of either Johnson or Kataoka '913.

Wilson or Bouyer as modified above shows a cleat substantially as claimed except for the exact shape of the peripheral teeth. Johnson or Kataoka teaches shaping projection teeth with one cone shaped surface (40 or 44) and the other side being pyramid shaped (44 or 43, figure 14a). It would have been obvious to form the teeth with one cone shaped surface and one pyramid surface as taught by either Johnson or Kataoka in the cleat of Wilson or Bouyer as modified above to prevent damage to the turf and to make the teeth safer to participants.

4. Claims 2, 5, 22, 28, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Softspikes (A unique Holiday Offer article) or Bouyer in view of either Howard (2095095) or Matulla (German patent 3811513).

Softspikes shows a cleat with a threaded stud and a plurality of peripheral teeth substantially as claimed except for the perimeter traction teeth having an outer traction surface facing away from the axis of the threaded stud which is angled outwardly. Bouyer shows a cleat with a main body (1), a plurality of perimeter traction teeth (3), a threaded stud (2), and a central abrasion-resistant/load bearing portion (end of 2 or 4) substantially as claimed except for the perimeter traction teeth having an outer traction surface facing away from the axis of the threaded stud which is angled outwardly. Howard or Matulla teaches outwardly angling the outer traction surface which faces away from the axis of the threaded stud to increase traction and to ensure against lateral slipping. It would have been obvious to outwardly angle the outwardly facing

Art Unit:

surface of the plurality of traction teeth as taught by either Howard or Matulla in the cleat of either Softspikes or Bouyer to increase traction and to prevent lateral slipping.

5. Claims 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 2, 5, 22, 28, and 30 above, and further in view of either Kelly or Jordan '114

Softspikes or Bouyer as modified above shows a cleat substantially as claimed except for an anti-debris ring. Kelly or Jordan '114 teaches providing an anti-debris ring (24 or 7). It would have been obvious to provide an anti-debris ring as taught by either Kelly or Jordan in the cleat of Softspikes or Bouyer as modified above to prevent debris from getting between the cleat body and the shoe sole.

In reference to claim 26, it is well known and conventional to provide fillets (i.e. a member which fills a portion of a threaded member) on threaded members to lock the threaded member in place. It would have been obvious to provide fillets as is well known and conventional in threaded fasteners in the cleat of either Softspikes or Bouyer as modified above to prevent the cleat from loosening during wear.

6. Claims 25 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 23 and 24 above, and further in view of Johnson or Kataoka '913.

Softspikes or Bouyer as modified above shows a cleat substantially as claimed except for the exact shape of the peripheral teeth. Johnson or Kataoka teaches shaping projection teeth with one cone shaped surface (40 or 44) and the other side being pyramid shaped (44 or 43, figure 14a). It

Art Unit:

would have been obvious to form the teeth with one cone shaped surface and one pyramid surface as taught by either Johnson or Kataoka in the cleat of Softspikes or Bouyer as modified above to prevent damage to the turf and to make the teeth safer to participants.

7. Claims 10 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 2, 5, 22, 28, and 30 above, and further in view of Johnson or Kataoka '913.

Softspikes or Bouyer as modified above shows a cleat substantially as claimed except for the exact shape of the peripheral teeth. Johnson or Kataoka teaches shaping projection teeth with one cone shaped surface (40 or 44) and the other side being pyramid shaped (44 or 43, figure 14a). It would have been obvious to form the teeth with one cone shaped surface and one pyramid surface as taught by either Johnson or Kataoka in the cleat of Softspikes or Bouyer as modified above to prevent damage to the turf and to make the teeth safer to participants.

Response to Arguments

8. Applicant's arguments filed 7/12/01 have been fully considered but they are not persuasive.

In response to applicants' arguments directed towards claims 2, 5, and 10, the above rejections were given in light of the questions and remand given by the Board of Appeals on 4/16/01. The fact that the Board Decision did not specifically mention the details of the dependent claims, the decision did raise questions in reference to the independent claims and/or the base references of

Art Unit:

the rejections. There is nothing in the Board Decision which states that the subject matter applicant is arguing was noted as being allowable over the prior art.

In response to applicants' arguments directed towards Matulla, Howard, Johnson, and Kataoka, it has been held that one cannot show non-obviousness by attacking references individually where, as here, the rejections are based on combinations of references. *In re Keller*, 208 USPQ 871 (CCPA 1981).

In response to applicants' arguments directed towards Matulla, Matulla clearly shows outwardly angled outer surface of projections in figure 1a.

In response to applicants' arguments directed towards Howard, Howard clearly discloses and teaches angling projections as an alternative position (as well as no angulation or angling the teeth inwards) for traction teeth.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

Art Unit:

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Telephone inquiries regarding the status of application or other general questions, by persons entitled to the information, "should be directed to the group clerical personnel and not to the Examiners. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information without contacting the examiners", M.P.E.P. 203.08. The Group clerical receptionist number is (703) 308-1148 or the Tech Center 3700 Customer Service Center number is (703) 306-5648.

For applicant's convenience, the Group Technological Center FAX number is *703) 305-3580. Please identify Examiner ____ of Art Unit ____ at the top of your cover sheet of any correspondence submitted.

Inquiries concerning the merits of the examination should be directed to Marie Patterson whose telephone number is (703) 308-0069.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g. copies of references cited, form PTO-1449, for PTO-892, etc. requests for copies of such papers should be directed to Valerie Douglas at (703) 308-1337.

Check out our web-site at "www.uspto.gov" for fees and other useful information.



Marie Patterson
Primary Examiner
Art Unit 3728

Attachment for PTO-948 (Rev. 03/01, or earlier)
6/18/01

The below text replaces the pre-printed text under the heading, "Information on How to Effect Drawing Changes," on the back of the PTO-948 (Rev. 03/01, or earlier) form.

INFORMATION ON HOW TO EFFECT DRAWING CHANGES

1. Correction of Informalities -- 37 CFR 1.85

New corrected drawings must be filed with the changes incorporated therein. Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin. If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings **MUST** be filed within the **THREE MONTH** shortened statutory period set for reply in the Notice of Allowability. Extensions of time may **NOT** be obtained under the provisions of 37 CFR 1.136(a) or (b) for filing the corrected drawings after the mailing of a Notice of Allowability. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

2. Corrections other than Informalities Noted by Draftsperson on form PTO-948.

All changes to the drawings, other than informalities noted by the Draftsperson, **MUST** be made in the same manner as above except that, normally, a highlighted (preferably red ink) sketch of the changes to be incorporated into the new drawings **MUST** be approved by the examiner before the application will be allowed. No changes will be permitted to be made, other than correction of informalities, unless the examiner has approved the proposed changes.

Timing of Corrections

Applicant is required to submit the drawing corrections within the time period set in the attached Office communication. See 37 CFR 1.85(a).

Failure to take corrective action within the set period will result in **ABANDONMENT** of the application.